IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Chamber Summons No. 1274 of 2006
in
Suit No. 794 of 2004

Mrs.Mary S.Terron ..Plaintiff

vs.

1. Anthony Clifford Terron
and others ..Defendants

Ms.Poornima Bhatia for plaintiff/applicant
Ms.J.P.Thakkar for defendant no.3.

CORAM: S.C.DHARMADHIKARI J.
16th July, 2007

P.C.

1. Heard Ms.Bhatia for the plaintiffs and Ms.Thakkar for defendant no.3.

2. Ms.Bhatia states that the Chamber Summons is duly served on defendant nos.1,2 and 4. There are no affidavits in reply filed on record.

3. Defendant no.3 has filed the affidavit in reply and has opposed the chamber summons on the ground that on the basis of some observations which are prima facie the plaintiffs cannot contend that the documents in favour of defendant no.3 are forged. She strongly opposes the contents of the affidavit in support and schedule to the chamber summons.

4. The plaintiff has filed the suit for declaration that defendant no.3 has no right, title or interest in the suit premises or any part thereof and that defendant no.3 is a rank trespasser in respect thereof.

5. After stating the outcome of the interlocutory proceedings in the suit, the plaintiff points out that defendant no.4 is the wife of defendant no.1 and she took out the chamber summons for being appointed as guardian of defendant no.1 alleging that he was a person of unsound mind. The plaintiff relied upon the order passed by this Court on 20th March, 2005 permitting the fourth defendant to be impleaded as party to the suit in her capacity and the plaintiff was granted liberty to do so. Pursuant to which the present chamber summons is filed.

6. After perusing the chamber summons, the Schedule/draft amendment and affidavit in support, I am satisfied that the amendments are necessary for effective and complete adjudication of the suit. It does not change the cause of action nor is any prejudice being caused to the parties.

7. The plaintiff who is 84 years old lady and filing the suit of the present nature has moved the application for amendment expeditiously and same does not lack bonafides either.

8. Chamber Summons is, therefore, made absolute in terms of prayer clause (a). Amendment to be carried out within two weeks from today. Needless to state that these amendments are without prejudice to the rights and contentions of both sides and merely because some assertions are made in the plaint on the basis of prima facie observations of this Court does not mean that the defendants have no opportunity to contravert the same.

9. Leaving all contentions of both sides open on merits the chamber summons is made absolute. Additional written statement, if any, to be filed after four weeks after receipt of the copy of the amended plaint. No order as to costs.

(S.C.DHARMADHIKARI J.)